

Notice of Allowability

Application No.

10/824,183

Examiner

William T. Leader

Applicant(s)

MINEVSKI ET AL.

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the papers filed on July 11, 2007.
2. ☒ The allowed claim(s) is/are 1-12, 14-37, 40-45, 47-49, 52-70, 94-97 and 100.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Art Unit: 1753

1. Receipt of the papers filed on July 11, 2007, is acknowledged. The amendment has been entered.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jeffrey Streets on July 31, 2007.

The application has been amended as follows:

In the Claims:

Claim 13 has been canceled.

Claim 32, line 3: " $\text{Al}_{70}\text{Cu}_{10}\text{Fe}_{10}\text{Cr}_{10}$ " has been deleted.

Claim 33, line 1 "or any claim dependent thereon" has been deleted.

Claims 71-93 have been canceled.

Claims 98 and 99 have been canceled.

COMMENTS

3. Claim 1, which is generic to the species identified in the requirement for election of species mailed on May 18, 2006, is allowed. The requirement indicated that upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which

Art Unit: 1753

depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. Accordingly, claims 13 and 54, previously withdrawn from consideration, are reinstated. In the amendment filed on July 11, 2007, applicant presented new claim 100 which is identical to claim 13. Since claim 100 has been entered, claim 13 has been canceled. Since, claim 54 has been reinstated and allowed, claim 32 has been amended to return to its original form. The dependency of claim 33 has been amended. Claims 71-93, 98 and 99, directed to non-elected inventions, have been canceled.

4. The following is an examiner's statement of reasons for allowance: The office action mailed on May 14, 2007, indicated that dependent claims 44-49 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The distinguishing features of these dependent claims in combination with the limitations of the claims upon which they depend is not taught or suggested by the prior art of record. The limitations of claim 46 have been added to claim 1. Claim 44 has been rewritten in independent form. Consequently, claims 1-12, 14-37, 40-45, 47-49, 52-70, 94-97 and 100 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Art Unit: 1753

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William T. Leader whose telephone number is 571-272-1245. The examiner can normally be reached on Mondays-Thursdays and alternate Fridays, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Susy Tsang-Foster can be reached on 571-272-1293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WL
William Leader
August 1, 2007


SUSY TSANG-FOSTER
PRIMARY EXAMINER